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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,115

12/23/2004

Renaud Dore

PF020081

9384

24498

7590

04/14/2009

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EXAMINER

MILLER, BRANDON J

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

04/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,115	<b>Applicant(s)</b> DORE ET AL.	
	<b>Examiner</b> BRANDON J. MILLER	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Response to Amendment/Remarks***

#### ***Disposition of Claims***

- I. Claims 1-5 remain pending in the application.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

II. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1,148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

III. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipasti et al. (US 2002/0039357 A1) in view of Cromer et al. (US 7,146,433 B2).

Regarding claim 1 Lipasti teaches a method of creation of a new communication network by a wireless terminal (see paragraph [0023], establishing pico network reads on new creation of new communication network). Lipasti teaches wherein the wireless terminal initially being part of an existing centralized network that includes an access point (see paragraph [0023], LAN or WLAN reads on existing centralized network). Lipasti teaches initiation of a procedure for creating a new network, coexisting with the existing network, including a declaration of the wireless terminal as access point of the new network (see paragraph [0023], establishing pico network reads on initiation of procedure for creating new network and device initiating the connection reads declaration of the terminal as access point of the new network because the initiating device becomes master device controlling access to the new network). Lipasti teaches where the operating parameters of the new network are such that communications on the new network do not interfere with the existing network (see paragraph [0023] and Fig. 1, pico network represents new network and AP represents existing network; the AP not being part of the ad hoc network but able to forward packets to and from ad hoc network indicates that the two networks coexist and do not interfere with one another). Lipasti does not specifically teach an access point controlling association of a wireless terminal to a network and disassociation of the wireless terminal from the existing centralized network. Cromer teaches an access point controlling association of wireless terminal to a network and disassociation of a terminal from an

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existing centralized network (see col. 19, lines 18-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Lipasti adapt to include the access point controlling association of a wireless terminal to a network and disassociation of the terminal from the existing centralized network because it is well known that access points such as the ones described in Lipasti can control association and that mobile nodes such as the ones described in Lipasti can disassociate from networks as taught in Cromer.

Regarding claim 2 Lipasti and Cromer teach a device as recited in claim 1 except for initiating disassociation in at least one of the following cases: frequency change rejection by the access point of the existing network following a request for frequency change from the wireless terminal; or connection establishment rejection by the access point of the existing network following a request for connection establishment from the wireless terminal. Cromer does teach initiating disassociation in at least one of a plurality of cases (see col. 2, lines 50-56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the invention adapt to include initiating disassociation in at least one of the following cases: frequency change rejection by the access point of the existing network following a request for frequency change from the terminal; or connection establishment rejection by the access point of the existing network following a request for connection establishment from the terminal because Cromer teaches initiating disassociation for a number of other reasons and the reasons claimed are common and well known reasons for disassociation (see Cromer, col. 2, lines 50-56).

Regarding claim 3 Norman teaches wherein the access point of the existing network initiates the disassociation (see col. 4, lines 18-22).

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Regarding claim 4 Lipasti teaches a wireless terminal including an interfaces with a communication medium, a microprocessor, and a memory (see paragraph [0023] & [0024]). Lipasti teaches initiation of a procedure for creating a new network including a declaration of the terminal as access point of the new network (see paragraph [0023], establishing pico network reads on initiation of procedure for creating new network and device initiating the connection reads declaration of the terminal as access point of the new network because the initiating device becomes master device controlling access to the new network). Lipasti teaches where the operating parameters of the new network are such that communications on the new network do not interfere with the existing network (see paragraph [0023] and Fig. 1, pico network represents new network and AP represents existing network; the AP not being part of the ad hoc network but able to forward packets to and from ad hoc network indicates that the two networks coexist and do not interfere with one another). Lipasti does not specifically teach performing disassociation of the terminal from a network. Cromer teaches performing disassociation of the terminal from a network (see col. 2, lines 50-56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Lipasti adapt to include performing disassociation of the terminal from a network because it is well known that mobile nodes such as the ones described in Lipasti can disassociate from networks as taught in Cromer.

Regarding claim 5 Lipasti and Cromer teach a device as recited in claim 2 and is rejected given the same reasoning as above.

***Response to Arguments***

IV. Applicant's arguments filed 01/22/2009 have been fully considered but they are not persuasive.

Regarding claims 1-5 the combination of Lipasti and Cromer teach a device as claimed.

Lipasti teaches initiation of a procedure for creating a new network, coexisting with the existing network, including a declaration of the wireless terminal as access point of the new network (see paragraph [0023] and Fig. 1). The pico network reads on the claimed new network and the AP reads on the claimed existing network. The AP not being part of the ad hoc network but able to forward packets to and from ad hoc network indicates that the two networks coexist and do not interfere with one another.

Cromer is being combined with Lipasti to show that the terminal or mobile node can disassociate from the network (see Cromer, col. 2, lines 50-56).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

**V. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON J. MILLER whose telephone number is (571)272-7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

/Brandon J Miller/  
Examiner, Art Unit 2617

April 10, 2009